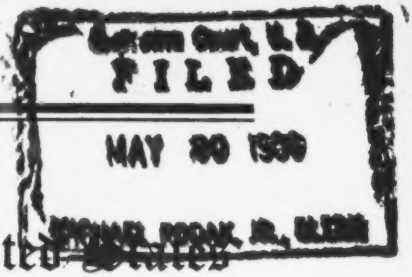

IN THE

Supreme Court of the United States

OCTOBER TERM, 1979

No. 79-1847

PAUL A. MASON, *Petitioner,*

v.

JANET BELL MCDOWELL, *Respondent.*

PETITION FOR A WRIT OF CERTIORARI

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v.

JANET BELL MCDOWELL, *Respondent.*

PETITION FOR A WRIT OF CERTIORARI

STATEMENT OF THE CASE

Your Petitioner PAUL A. MASON filed a Petition for a Writ of Habeas Corpus in the United States District Court for the Western District of Pennsylvania. He alleged, inter alia, that certain constitutional rights under the due process and equal protection clauses of the Fourteenth Amendment were abridged by Exparte Order of a Pennsylvania court that denied his custody

of his daughter while at the same time there was an appropriate order of custody in effect which had been granted by a court of proper jurisdiction from the state of Alabama.

The District Court dismissed the verdict on three separate alternative theories, one being that the case was moot because the Exparte Order that had been filed by the state court had expired; also that the Petitioner had not exhausted his state remedies and further that the vehicle of a Federal Habeas Corpus is not available to challenge a child custody order entered by a state court.

A timely appeal was taken to the United States Court of Appeals of the Third Circuit and an opinion which is attached hereto affirmed the Order of the District Court on the ground that the Petitioner had not Exhausted his state remedies.

Accordingly, your Petitioner brings this matter before the Supreme Court of the United States requesting that the court considered the merits of his Petition, since several federal questions and constitutional issues of significant and far reaching importance are involved in this case.

STATEMENT OF ISSUE

WHETHER OR NOT, a Writ of Certiorari should be granted under circumstances where Petitioner's constitutional rights to due process and equal protection under the Fourteenth Amendment have been violated by a state court which issued an Exparte Order of Court which had the effect of changing the substantive rights of the parties to the Order of Court without first being granted the opportunity to have a hearing on the merits of the case involved.

ARGUMENT

Jurisdiction of the Supreme Court of the United States and of the entire Federal Court structure in this matter is invoked under 28 U.S.C. Section 2241-55. Although the Third Circuit Court of Appeals believed, as did the District Court that the Petitioner has not exhausted his state remedies, had once again outlined for the court the fact that the state remedies have been exhausted insofar as this issue is concerned.

The Order of Court complained of was issued without a hearing being granted and there is no question over that fact. Furthermore, PAUL A. MASON filed Preliminary Objections to the Petition and those Preliminary Objections were dismissed. Raised in the Preliminary Objections the question of jurisdiction and also the violation of his constitutional rights were orally raised before the court and they were denied. An appeal was taken to the Superior Court of Pennsylvania and the lower court was affirmed without opinion and a Petition was filed with the Supreme Court of Pennsylvania and it was also denied. Thus, MR. MASON was faced with a situation where he had no further remedies to pursue in the state court insofar as this issue is concerned.

He then filed a Petition for a Writ of Habeas Corpus in the United States District Court for the Western District of Pennsylvania and as stated earlier in the Statement of the Case, same was denied and thus this appeal has been taken.

We would like to adopt the language of the Third Circuit Court of Appeals in its opinion where the court stated "We do not wish to be perceived as diminishing in any way the seriousness of the constitutional injury alleged. Certainly, the deprivation of a father's right to

the custody and companionship of his child is a serious matter. However, in the posture of this case we have no way of knowing what reasons the state of Pennsylvania might advance for the necessity of *pendente lite* orders shifting custody without the procedures generally required by the due process clause of the Fourteenth Amendment."

Without question, the Third Circuit Court of Appeals has recognized that MR. MASON did suffer a violation of his rights. We cited as authority in that direction, *Stanley* v. *Illinois 401 U.S. 645 (1971); Board of Regents* v. *Roth 408 U.S. 564 (1972),* where the Supreme Court of the United States has held on more than one occasion, that a person is deprived of a protected interest when he is not afforded an opportunity for some kind of hearing in which to present the merits of the case. Furthermore, in the case of *Matthews* v. *Eldridge, 424 U.S. 319 (1976),* the Supreme Court recognized that in order to identify the dictates of due process, a court must generally consider the private interests affected by official action and further the risk or ironous deprivation of such interests through procedures used and which were used in this case by the state of Pennsylvania.

Accordingly, we are petitioning this court to grant the Writ of Certiorari to rule upon the issue of whether or not in fact, MR. MASON had been denied the free exercise of his constitutional rights by the conduct of the Court of Common Pleas of Allegheny County, and furthermore, that the vehicle of the Writ of Habeas Corpus is an appropriate means by which MR. MASON could attack the deprivation of those constitutional rights in the Commonwealth of Pennsylvania, and for these reasons we ask the court to grant this Writ, so that this case may be heard on its merits.

CONCLUSION

In conclusion, Petitioner requests this Honorable Court to grant the Writ as aforesaid and that his plea not fall upon deaf ears, since we have been before three appellate courts and two trial courts and no one has specifically addressed constitutional issues which we raise herein and which we believe to have been properly raised in all other courts but for some reason our arguments fall upon deaf ears and we request this Honorable Court to grant the Writ, so that the merit may be brought before it.

Respectfully submitted,

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Attorney for Petitioner

APPENDIX

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 79-1872

PAUL A. MASON, *Appellant,*

v.

JANET BELL MCDOWELL

On Appeal From The United States District Court For The Western District Of Pennsylvania
C.A. No. 79-0224

Argued January 11, 1980

Before SEITZ, *Chief Judge,* ADAMS and WEIS, *Circuit Judges*

(Filed January 31, 1980)

ELMER S. BEATTY, JR., ESQ.
(Argued)
Doherty, Heck, Robb & Beatty
Pittsburgh, Pennsylvania
Attorney for Appellant

RAYMOND RADAKOVICH, ESQ.
(Argued)
Frank & Radakovich
Pittsburgh, Pennsylvania
Attorney for Appellee

OPIONION OF THE COURT

PER CURIAM.

Paul Mason filed a petition for a writ of habeas corpus in the district court contending that his rights undr the due process and equal protection clauses of the Fourtheenth Amendment were abridged by an *ex parte* order of a Pennsylvania court that denied him custody of his daughter. The district court dismissed the writ on three separate, alternative theories. (1) The case was moot because the *ex parte* order that had been filed by the state court had, under its temporal terms, expired. (2) The petitioner had not exhausted state remedies as required by 28 U.S.C. 2254(b), (c) (1976). And (3) federa habeas corpus is not available to challenge a child custody order entered by a state court. We affirm only on the second ground.

I.

The parties were divorced in 1975 by an Alabama court, which granted custody of the older child, then four years old, to the father (Mason) and custody of the younger child, then a year old, to the mother (McDowell). Both parents received reasonable rights of visitation. Mason subsequently moved to West Virginia, and McDowell went to Pennsylvania. After a weekend visit in March 1976, the older child was not returned to her father. McDowell filed a complaint for custody in the Allegheny County Court of Common Pleas. Without notice or an opportunity for a hearing, Mason was enjoined by that court on March 15 "from making any attempts to take either child or both children from the custody of their mother" and from "removing the children from this jurisdiction." The injunction was to be effective "pending a proper hearing," ordered to take place on May 25.

In "Preliminary Objections" filed May 24, Mason challenged the personal jurisdiction of the Pennsylvania court on the basis of improper service of process, and raised the defense that the Alabama decree was res judicata. The first claim apparently was abandoned at the hearing held on the preliminary objections, and the Court of common Pleas held

as to the second objection that res judicata does not apply to child custody decrees.[1]

That decision was appealed to the Pennsylvania Superior Court, which affirmed per curiam, and a petition for allocatur was denied by the Pennsylvania Supreme Court. There is no indication that the federal constitutional claims asserted in the petition for habeas were ever raised in the state courts, and the petitioner did not pursue his appeal from the state's highest court to the United States Supreme Court.

II.

The district court held the petition to be moot because the *ex parte* order of which Mason complains expired by its own terms on May 25, 1976, the date a hearing was scheduled. It noted that the order entered by the Court of Common Pleas provided that it would expire after a "proper hearing," and such a hearing never occurred. That a date was ordered for a hearing does not, without further exploration of the facts, show that the injunction has expired. Even if the *ex parte* injunction had expired, it is likely that — given the generally short-term nature of these orders — this case would nevertheless be justiciable as one "capable of repetition, yet evading review." *Southern Pacific Terminal Co.* v. *ICC,* 219 U.S. 498, 515 (1911). *See In re Establishment Inspeciton of Whitaker Corp.,* No. 79-1120, slip op. at 8-9 (3d Cir. Nov. 16, 1979). The fact is, however, that a final hearing on the merits of the child custody case has not been held, the injunction appears therefore to have continuing effect, and the alleged constitutional injury lingers: Mason was deprived of the custody of one of his children without notice or the opportunity for a hearing.

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[1] *Cf.* May v. Anderson, 345 U.S. 528 (1953) (foreign state's child custody decree not entitled to full faith and credit because it would be subject to modification in that jurisdiction). The problems spawned by that case and illustrated here were prophesied in Hazard, May v. Anderson: *Preamble to Family Law Chaos,* 45 Va. L.Rev. 379 (1959).

III.

The petition alleged jurisdiciton of the district court under 28 U.S.C. §§ 2241-55 (1976). Inasmuch as the child is alleged to be illegally "in custody pursuant to the judgment of a state court,"[2] it is to the requirements of § 2254 that we look. Subsection (b) states that the writ "shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State." The meaning of the exhaustion requirement is elaborated in subsection (c) as follows: "An applicant shall not be deemed to have exhausted the remedies available in the courts of the State, within the meaning of this section, if he has the right under the law of the State to raise, by any available procedure, the question presented."

There is no indication, either in the pleadings or in the record as a whole, that Mason has ever brought his constitutional claims before a state court.[3] We therefore hold that he

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[2] The question whether a child whose custody has been changed from one parent to another pursuant to a state court order is "in custody" for purposes of § 2254 proceedings is a very difficult one that need not be decided on this appeal, since we hold that dismissal of the petition was proper on a more settled ground. *Cf.* Jones v. Cunningham, 371 U.S. 236, 239-40 (1963) (noting expansiveness of definition: habeas corpus has been used to seek a remedy for variety of restraints on liberty).

[3] The possibilities of state relief were not briefed by the parties, but we note that state remedies at the time this action was instituted might have included a state habeas corpus proceeding, *see* 12 Pa. Stat. Ann. § 1888 (Purdon's 1967) (extending provision for writ of habeas corpus in criminal matters "to all [noncriminal] cases where any person . . . shall be confined or restrained of his or her liberty, under all color or pretense whatsoever") (current version at 42 Pa. Con. Stat. Ann. §§ 6501-05 (Purdon's 1978 Pamphlet)), or an action for declaratory and injunctive relief, *see* 12 Pa. Stat. Ann. §§ 831, 838 (Purdon's 1967) (granting courts of record "power to declare rights, status, and other legal relations whether or not further relief is or could be had" and permitting grant of further relief based on declaratory judgment) (current version at 42 Pa. Con. Stat. Ann. §§ 7532, 7538 (Purdon's 1978 Pamphlet)).

has not exhausted available state remedies as the statute requires, and that dismissal of the writ was proper on this ground. Consequently, we need not reach or express any view regarding the third reason given by the district court: that habeas corpus cannot be used to attack the order at issue in this case.[4]

IV.

In affirming the district court's dismissal of the petition for writ of habeas corpus, we do not wish to be perceived as diminishing in any way the seriousness of the constitutional injury alleged. Certainly the deprivation of a father's right to the custody and companionship of his child is a serious matter.[5] However, in the posture of this case we have no way of knowing what reasons the State of Pennsylvania might advance for the necessity of *pendente lite* orders shifting custody without the procedures generally required by the due process clause of the Fourteenth Amendment.[6] Whatever

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[4] The district court in holding that habeas corpus was not assertible here relied on *Donnelly* v. *Donnelly,* 515 F.2d 129 (1st Cir. 1975). The Court in *Donnelly* stated that the writ of habeas corpus could not be used to attack state custody orders. The petitioner sought visiting rights that had been suspended by the state court. There is no indication what federal law or constitutional right was alleged to have been violated by the state court action. The present petition, however, does not attack the merits of the custody order, but the procedure by which it was granted. *Cf.* Fuentes v. Shevin, 407 U.S. 67 (1971) (state replevin provisions allowing seizure of chattels without notice or opportunity for hearing violate Fourteenth Amendment); Conover v. Monemuro, 477 F.2d 1073 (3d Cir. 1973) (federal abstention that might generally preclude inquiry into operation of state juvenile court does not apply when its procedures are challenged on due process or equal protection grounds); Magaziner v. Montemuro, 468 F.2d 782, 787 (ed Cir. 1972) (abstention doctrine applies to domestic relations cases, except when equal protection considerations are present).

[5] *See, e.g.*, Stanley v. Illionis, 405 U.S. 645 (1971).

[6] *See* Board of Regents v. Roth, 408 U.S. 564, 570 n.7 (1972) ("before a person is deprived of a protected interest, he must be af-

merit Mason's constitutional claim may have, it may not be considered in view of the posture of the controversy. Accordingly, we will affirm the dismissal of the petition for habeas corpus without prejudice to any further action the petitioner may wish to initiate.

TO THE CLERK:

Kindly file the foregoing per curiam (not for publication).

Circuit Judge

DATED:

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forded opportunity for some kind of hearing, 'except for extraordinary situtations where some valid governmental interest is at stake that justifies postponing the hearing until after the event.' ") (quoting Boddie v. Connecticut, 401 U.S. 371, 379 (1971)); *cf.* Mathews v. Eldridge, 424 U.S. 319, 335 (1976) (to identify dictates of due process, a court must generally consider private interest affected by official action, risk of erroneous deprivation of such interest through procedures used and probable value of additional procedures, and fiscal or administrative burdens of additional procedures).

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 79-1872

PAUL A. MASON, *Appellant*

v.

JANET BELL MCDOWELL

(D.C. Civil No. 79-0224)

On Appeal From The United States District Court For The Western District Of Pennsylvania

Present: SEITZ, *Chief Judge* and ADAMS and WEIS, *Circuit Judges*

JUDGMENT

This cause came on to be heard on the record from the United States District Court for the Western District of Pennsylvania and was argued by counsel on January 11, 1980.

On consideration whereof, it is now here ordered an adjudged by this Court that the judgment of the said District Court, filed April 25, 1979, be, and the same is hereby affirmed in accordance with the opinion of this Court. Costs taxed against appellant.

ATTEST:

/s/ M. ELIZABETH FERGUSEN
Chief Deputy Clerk

January 31, 1980

Supreme Court, U.S.
FILED
JUL 8 1980
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1979

No. 79-1847

PAUL A. MASON, *Petitioner,*

v.

JANET BELL McDOWELL, *Respondent.*

SUPPLEMENTAL APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1979

No. 79-1847

PAUL A. MASON, *Petitioner,*

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JANET BELL MCDOWELL, *Respondent.*

SUPPLEMENTAL APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

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IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

Civil Action No. 79-224 D

PAUL A. MASON,

Petitioner

vs.

JANET BELL McDOWELL,

Respondent

MEMORANDUM

BARRON P. McCUNE, District Judge

April 25, 1979.

This complaint is for a Writ of Habeas Corpus in a custody case. The petitioner, Paul A. Mason, a resident of West Virginia, divorced his wife, Janet Louise Mason, in Etowah County, Alabama, on September 24, 1975. By the divorce decree, Lisa, their child of four years of age, was placed in her father's custody. The child's mother was awarded the privilege of reasonable visitation. While petitioner was a resident of West Virginia and his former wife was a resident of Pennsylvania, the child was visiting her mother, and about March 15, 1976, was not returned to her father. Instead, a complaint for custody was filed by the mother in the Court of Common Pleas of Allegheny County. By order of March 15, 1976, the court fixed a hearing for March 25, 1976, and, pending the hearing, enjoined petitioner from removing child from jurisdiction.

Plaintiff alleges that the portion of the order enjoining removal of the child pending the hearing is an *ex parte* order. Because the order is *ex parte*, the petitioner argues that the order constitutes a denial of due process and equal protection in violation of the Fourteenth Amendment. Petitioner seeks return of the child to his custody.

Petitioner's complaint suffers from numerous infirmities. First, the case is either moot or petitioner has not exhausted his state remedies. The order complained of extends from March 15 to March 25, 1976, the date scheduled for a hearing. On its face, the order has expired. If petitioner does not have custody of his child in 1979, it is not by force of this order, which expired over three years ago. The order could be interpreted to extend to the date of a "proper hearing" if one was not had on March 25, 1976. If such is the case, however, petitioner should seek this hearing in state court. He has not exhausted his state remedies. Under either interpretation of the order, it gives no basis for habeas corpus relief.

Even if petitioner's claims survive the expiration of the March 25, 1976 order and he has exhausted his state remedies, they are not properly raised through the vehicle of a habeas corpus petition. The Court of Appeals for the First Circuit has rejected use of the Writ of Habeas Corpus to attack custody orders of state courts. *Donnelly* v. *Donnelly*, 515 F.2d 129 (1st Cir. 1975). Absent any authority in this circuit, we follow this precedent.

An appropriate order follows.

/s/ Barron P. McCune
Barron P. McCune
United States District Judge

Dated: April 25, 1979.
cc: Counsel of record.

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

Civil Action No. 79-224 D

PAUL A. MASON,
Petitioner

vs.

JANET BELL McDOWELL,
Respondent

ORDER

AND Now, April 25, 1979, respondent's Motion to Dismiss is granted.

/s/ BARRON P. McCUNE
Barron P. McCune
UNITED STATES DISTRICT JUDGE

cc: Raymond Radakovich, Esq.
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Pittsburgh, Pa. 15219

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Supreme Court, U. S.
FILED
JUN 13 1980
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1979

No. 79-1847

PAUL A. MASON, *Petitioner,*

v.

JANET BELL MCDOWELL, *Respondent.*

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1979

No. 79-1847

PAUL A. MASON, *Petitioner,*

v.

JANET BELL MCDOWELL, *Respondent.*

STATEMENT OF THE CASE

This matter is before this Court on Petitioner's Petition for Writ of Certiorari following the refusal by the District Court for the Western District of Pennsylvania and the Circuit Court of Appeals for the Third Circuit of a Petition for Writ of Habeas Corpus.

The Petitioner, Paul A. Mason, and the Respondent, Janet Bell McDowell, were divorced in 1975 and were at the time the parents of two children, Lisa Maria and Christa Mae. Custody of Lisa (then 4 years old) was given to Petitioner and custody of Christa (then 1 year old) was given to Respondent by a decree of an Alabama Court. Petitioner subsequently moved to West

Virginia and Respondent moved to Pennsylvania. On March 15, 1976, during a visitation by Lisa with her mother, Respondent filed a Complaint for Custody of the children in the Court of Common Pleas of Allegheny County, Pennsylvania. On that date, the Court entered an Order scheduling a hearing for May 25, 1976 and also ordered that, pending the hearing, Petitioner was enjoined from removing either child from jurisdiction.

The Petitioner filed Preliminary Objections to the Complaint for Custody. That petition raised only two issues: First, that the Alabama decree awarding custody was *res judicata*. Second, that there was improper personal service and hence the jurisdiction of the Court of Common Pleas of Allegheny County was not properly invoked.[1] The Preliminary Objections were dismissed by the Court of Common Pleas and appeals to the Superior Court off Pennsylvania and the Supreme Court of Pennsylvania were both unsuccessful. As the Circuit Court stated in its Opinion:

> "There is no indication that the federal constitutional claims asserted in the Petition for Habeas were ever raised in the state courts, and the Petitioner did not pursue his appeal from the State's highest Court to the United States Supreme Court." (A.3a)

Furthermore, Petitioner has never sought the hearing to determine custody in the Court of Common Pleas. Instead, Petitioner filed a Petition for Writ of Habeas Corpus, which is the subject of this Petition for Writ of Certiorari. The District Court dismissed the Petition for Writ of Habeas Corpus on three separate, alternative

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[1] This claim was abandoned at the hearing on the preliminary objections.

theories: (1) The case was moot because the Order had expired, (2) the Petitioner had not exhausted his State remedies, and (3) federal habeas corpus is not available to challenge a child custody order entered by a state court. The Court of Appeals affirmed solely on the gound that Petitioner had not exhausted his State remedies.

STATEMENT OF QUESTION PRESENTED FOR REVIEW

The question presented for review by this Court is whether federal habeas corpus jurisdiction is available under circumstances where Petitioner seeks determination of child custody and where Petitioner has failed to exhaust his State remedies.

ARGUMENT

A. Petitioner Has Failed To Exhaust His State Remedies.

28 U.S.C. § 2254, under which Petitioner alleges jurisdiction in this matter, provides, *inter alia:*

> "(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process, or the existence of circumstances rendering such process ineffective to protect the rights of the prisoner.
>
> (c) An applicant shall not be deemed to have exhausted the remedies available in the courts of the State, within the meaning of this section, if he has a

> right under the law of the State to raise, by any available procedure, the question presented."

The Petitioner has failed to exhaust his administrative remedies in accordance with the requirements of 28 U.S.C. § 2254. The constitutional claims which Petitioner herein asserts have never before been raised in the State courts. As the Circuit Court stated:

> "There is no indication, either, in the pleadings or in the Record as a whole, that [the Petitioner] has ever brought his constitutional claims before a State court. [Footnote omitted] We therefore hold that he has not exhausted available State remedies as the statute requires, and that dismissal of the Writ was proper on this ground (A.4a-5a)."

The record before this Court is void of any constitutional claim being made in the State courts. The petition to dismiss the Complaint for Custody raised only two grounds: (1) *res judicata* of the Alabama decree, and (2) lack of jurisdiction due to improper service of process. The second claim was abandoned. The Court of Common Pleas dismissed the Preliminary Objections on the issue of *res judicata*. No constitutional claim was made before that Court nor was such constitutional claim subsequently made before the Superior Court of Pennsylvania or the Supreme Court of Pennsylvania. There is only the Petitioner's self-serving statement, made for the first time in the instant Petition for Writ of Certiorari, that the constitutional claims were orally raised in the State court. This statement stands in complete contradiction, however, of the record before this Court.

There exist at least two State remedies which were and are available to the Petitioner to seek the identical relief which Petitioner seeks herein. The first remedy is

the Pennsylvania Habeas Corpus Act, which permits an application for habeas corpus to inquire into the cause of detention of any person restrained of his liberty within the Commonwealth of Pennsylvania under any pretense whatsoever. See, 42 Pa.C.S.A. 6501 *et seq.* The second remedy is the Pennsylvania Declaratory Judgments Act which grants to the Pennsylvania courts the power to declare rights, status, and other legal relations whether or not further relief is or could be claimed and which permits the granting of further relief based on declaratory judgments. See, 42 Pa.C.S.A. 7531 *et seq.*

It should again be noted that Petitioner could have raised these constitutional claims in the Complaint for Custody proceedings. It should be further noted that Petitioner has failed to request that the hearing in the Complaint for Custody proceedings. It should be further noted that Petitioner has failed to request that the hearing in the Complaint for Custody proceedings be had in order that the merits of the custody dispute be finally resolved.

B. Federal Habeas Corpus Jurisdiction Is Not Available In Child Custody Matters.

Although the Circuit Court found it unnecessary to reach this issue, this Court should take cognizance of the fact that the federal courts have rejected the use of the writ of habeas corpus to attack custody orders of state courts. See, *Donnelly* v. *Donnelly*, 515 F.2d 129 (1st Cir. 1975); *Armstrong* v. *Armstrong*, 508 F.2d 348 (1st Cir. 1974).

CONCLUSION

Based on the foregoing, this Honorable Court is requested to deny the extraordinary relief of habeas corpus.

Respectfully submitted,

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